

1 **UNITED STATES DISTRICT COURT**  
2 **FOR THE NORTHERN DISTRICT OF NEW YORK**

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3 **RODNEY BEATTIE,**

4 **Plaintiff,**

5 **-against-**

6 **CREDIT ONE BANK**

7 **Defendant.**

**CASE NO.:** 5:15-CV-1315  
(LEK/TWD)

**COMPLAINT**

**PLAINTIFF DEMANDS TRIAL  
BY JURY**

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8 **COMPLAINT**

9 RODNEY BEATTIE (“Plaintiff”), by and through his attorneys, KIMMEL &  
10 SILVERMAN, P.C., alleges the following against CREDIT ONE BANK (“Defendant”):

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12 **INTRODUCTION**

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14 1. This is an action for damages brought by an individual consumer for Defendant's  
15 violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).

16  
17 **JURISDICTION AND VENUE**

18 2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v.  
19 Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881(2012).

20 3. Defendant regularly conducts business in the State of New York therefore  
21 personal jurisdiction is established.

22 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).  
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24  
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**PARTIES**

5. Plaintiff is a natural person residing in Cortland, New York.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation with its principal place of business located at 585 Pilot Road, Las Vegas, Nevada 89119.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS**

10. Plaintiff has a cellular telephone number that he has had for over a year.

11. Plaintiff has only used this number as a cellular telephone number.

12. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.

13. Beginning in April 2015 and continuing through October 2015, Defendant called Plaintiff on his cellular telephone on a repetitive and continuous basis.

14. During the relevant period, Defendant relentlessly called Plaintiff on his cellular telephone.

15. While Plaintiff has an account with Defendant, he revoked any consent previously given to contact him on his cellular telephone in September 2015.

16. Plaintiff’s revocation was acknowledged by Defendant’s representatives, yet Defendant continued to call his cellular telephone thereafter.

17. Defendant’s telephone calls were not made for “emergency purposes.”

**COUNT I**  
**DEFENDANT VIOLATED THE TCPA**

18. Defendant initiated multiple telephone calls to Plaintiff's cellular telephone.

19. Defendant's calls to Plaintiff were not made for emergency purposes.

20. Defendant's calls to Plaintiff were not made with Plaintiff's prior express consent.

21. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

22. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

23. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

WHEREFORE, Plaintiff, RODNEY BEATTIE, respectfully prays for judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. §227(b)(3);
- b. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3)(B);
- c. Treble damages of \$1,500 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);
- d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3);

1 e. Any other relief deemed fair and proper by this Honorable Court.

2  
3 **DEMAND FOR JURY TRIAL**

4 PLEASE TAKE NOTICE that Plaintiff, RODNEY BEATTIE, demands a jury trial in  
5 this case.

6 RESPECTFULLY SUBMITTED,

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9 Dated: November 5, 2015

By: Craig Thor Kimmel  
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